

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW HAMPSHIRE

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FORRESTER ENVIRONMENTAL SERVICES,  
INC. and KEITH E. FORRESTER, :  
:  
Plaintiffs, : CASE NO. 10-CV-154-JL  
:  
vs. :  
:  
WHEELABRATOR TECHNOLOGIES, INC., :  
:  
Defendant. :  
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**STIPULATION LIMITING WAIVER OF ATTORNEY-CLIENT PRIVILEGE**

WHEREAS Plaintiffs have commenced this action against Defendant Wheelabrator Technologies Inc. (“WTI”) alleging, among other things, that WTI made false statements concerning various patents owned by Plaintiffs and concerning patents owned by WTI; and,

WHEREAS WTI denies the material allegations made by Plaintiffs in their Amended Petition, and specifically alleges that statements made by WTI concerning patents, if any, were either truthful or else were expressions of opinion which are neither true nor false, and further specifically alleges that WTI was privileged to make whatever statements it may have made in that the same were made in good faith and without tortious intent; and,

WHEREAS, Plaintiffs have requested that WTI produce certain documents and things and WTI agrees that such requests encompass an opinion from WTI’s intellectual property counsel; and,

WHEREAS, WTI is willing to produce such opinion on the condition that such production not be construed as a waiver of the attorney-client privilege or of the attorney work product doctrine or any other applicable privilege, except as expressly set forth herein;

NOW, THEREFORE, the parties, through their undersigned counsel, stipulate and agree as follows:

1. Within ten (10) calendar days from the approval and “so ordering” of this Stipulation by the Court in the above-captioned action, WTI shall produce the opinion of its patent counsel.
2. Such production shall not be deemed a waiver of the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege, except that:
  - a. Plaintiffs shall be entitled to inspect and copy any and all documents and things relied upon by patent counsel in the course of preparing his or her opinion.
  - b. Plaintiffs shall be entitled to take the deposition of the patent counsel who prepared the opinion and to ask him or her the bases for any conclusions of fact or of law expressed in the opinion and also to ask him or her to describe the specific instructions, if any, that he or she was given prior to commencing work on the patent opinion.
3. Nothing herein shall expand or limit any other discovery obligations of any of the parties.
4. Nothing herein shall prevent either party from seeking clarification or other relief from the Court, whether by motion for protective order, motion to compel, or otherwise, with respect to other discovery obligations of the respective parties.

5. This Stipulation shall not be binding or effective until it has been approved and “so ordered” by the Court.

**KEITH FORRESTER and FORRESTER  
ENVIRONMENTAL SERVICES, INC.**

By their attorneys,

**GALLAGHER, CALLAHAN &  
GARTRELL, PC**

By:           /s/ Erik G. Moskowitz  
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Dated January , 2011

**WHEELABRATOR TECHNOLOGIES INC.**

By its attorneys,

**DEVINE, MILLIMET & BRANCH,  
PROFESSIONAL ASSOCIATION**

Dated: January 19, 2011

By: /s/ Steven E. Grill  
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**Approved and So Ordered this \_\_\_\_ day of January 2011**

**By: \_\_\_\_\_, United States District Judge**